


IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM
CRIMINAL MINUTES
SENTENCING

FILED
DISTRICT COURT OF GUAM
MAR = 6 2006 
MARY L.M. MORAN
CLERK OF COURT

CASE NO. CR-05-00071

DATE: 03/06/2006

HON. JAMES L. ROBART, Designated Judge

Court Reporter: Wanda Miles

Hearing Electronically Recorded: 10:08:33 - 10:19:06

Law Clerk: NONE PRESENT

Courtroom Deputy: Virginia T. Kilgore

CSO: B. Benavente / L. Ogo

***** A P P E A R A N C E S *****

DEFT: ZHONGFENG XUE

(X) PRESENT (X) CUSTODY () BOND () P.R.

ATTY : JOHN GORMAN

(X) PRESENT () RETAINED (X) FPD () CJA APPOINTED

U.S. ATTORNEY: FRED BLACK / ROSETTA SAN NICOLAS

AGENT:

U.S. PROBATION: MARIA CRUZ / JUDY OCAMPO

U.S. MARSHAL: V. ROMAN & J. CURRY

INTERPRETER: FOO MEE CHUN CLINARD, previously sworn

LANGUAGE: CHINESE

(X) COURT STATES THE APPROPRIATE BASE OFFENSE LEVELS _____

Base offense level:

Total offense level: 8

Criminal History Category: I

NO OBJECTIONS BY THE GOVERNMENT AND DEFENSE

(X) ATTORNEY FOR DEFENDANT ADDRESSES THE COURT:

Requested the Court to sentence the defendant to time served. He further requested the Court not to impose a fine and stated his reasons.

(X) DEFENDANT ADDRESSES THE COURT AND APOLOGIZES

(X) GOVERNMENT ADDRESSES THE COURT AND MAKES ITS RECOMMENDATION:

Recommended credit for time served. Mr. Black held no position on the matter regarding the fine.

() LETTER(S) OF RECOMMENDATION RECEIVED BY THE COURT

NOTES/OTHER MATTERS:

Government moved to dismiss Count II. GRANTED. Probation Officer, Maria Cruz stated that since the Court is not imposing a fine she requested the Court to remove the condition that defendant be prohibited from incurring new credit charges or new opening lines of credit. No objection. GRANTED.

(X) DEFENDANT COMMITTED TO THE BUREAU OF PRISONS FOR A TERM OF 152 DAYS (TIME SERVED).

() COURT RECOMMENDATION TO THE BUREAU OF PRISONS AT _____.

(X) UPON RELEASE FROM IMPRISONMENT, DEFENDANT IS PLACED ON SUPERVISED RELEASE FOR A TERM OF TWO YEARS.

THE TERM OF SUPERVISED RELEASE WILL INCLUDE THE FOLLOWING CONDITIONS:

1. DEFENDANT SHALL BE TURNED OVER TO A DULY AUTHORIZED IMMIGRATION OFFICIAL FOR DEPORTATION PROCEEDINGS PURSUANT TO 18 U.S.C. § 3583(d), AND WITH THE ESTABLISHED PROCEDURES PROVIDED BY THE IMMIGRATION AND NATURALIZATION ACT UNDER 8 U.S.C. § 1101. AS A FURTHER CONDITION OF SUPERVISED RELEASE, IF DEPORTED, THE DEFENDANT SHALL REMAIN OUTSIDE THE UNITED STATES AND NOT RE-ENTER WITHOUT THE PERMISSION OF THE SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY. IF DEPORTATION FAILS TO OCCUR AND THE DEFENDANT IS RELEASED FROM CONFINEMENT PENDING FURTHER IMMIGRATION PROCEEDINGS, HE SHALL IMMEDIATELY REPORT TO THE U.S. PROBATION OFFICE TO BEGIN HIS TERM OF SUPERVISED RELEASE.
2. DEFENDANT SHALL NOT COMMIT ANOTHER FEDERAL, STATE, OR LOCAL CRIME.
3. DEFENDANT SHALL NOT UNLAWFULLY POSSESS A CONTROLLED SUBSTANCE AND SHALL REFRAIN FROM ANY UNLAWFUL USE OF A CONTROLLED SUBSTANCE. THE MANDATORY DRUG TESTING CONDITION IS HEREBY SUSPENDED BASED UPON THE COURT'S DETERMINATION THAT THE DEFENDANT POSES A LOW RISK OF FUTURE SUBSTANCE ABUSE.
4. DEFENDANT SHALL SUBMIT TO THE COLLECTION OF A DNA SAMPLE AT THE DIRECTION OF THE U.S. PROBATION OFFICE.
5. DEFENDANT SHALL COMPLY WITH THE STANDARD CONDITIONS OF SUPERVISED RELEASE AS SET FORTH BY THE U.S. SENTENCING COMMISSION AND UNDER 18 U.S.C. § 3583.
6. DEFENDANT SHALL PROVIDE THE U.S. PROBATION OFFICE ACCESS TO ANY REQUESTED FINANCIAL INFORMATION.

IT IS FURTHER ORDERED THAT THE DEFENDANT PAY TO THE UNITED STATES A SPECIAL ASSESSMENT FEE OF \$100.00 DUE IMMEDIATELY AFTER SENTENCING.

PURSUANT TO SECTION 5E1.2(f) OF THE GUIDELINE RANGE, ALL FINES ARE WAIVED SINCE IT HAS BEEN DETERMINED THAT THE DEFENDANT DOES NOT HAVE THE ABILITY TO PAY.

COURT STATES THE JUSTIFICATION OF SENTENCE IMPOSED. DEFENDANT ADVISED OF HIS APPEAL RIGHTS. COURT ORDERS THAT A COMPLETE AND CORRECTED COPY OF THE PRESENTENCE REPORT AND JUDGMENT BE PREPARED FOR THE BUREAU OF PRISONS AND THE U.S. SENTENCING COMMISSION. NO OBJECTIONS. DEFENDANT REMANDED TO THE CUSTODY OF THE U.S. MARSHAL FOR PROCESSING.